

WISCONSIN STATE SENATE

P. O. Box 7882 Madison, WI 53707-7882

November 8, 2011

Attorney General J.B. Van Hollen
114 East, State Capitol
Madison, WI 53702

Dear Attorney General Van Hollen:

We are writing to ask for a formal opinion on the immunity provisions in Wisconsin's concealed carry law.

Under Wisconsin Statute 175.60(21), a person who decides to allow concealed weapons on their own premises is immune from *any liability* arising from that decision. Furthermore, an employer who decides to allow employees to carry a concealed weapon is immune from *any liability* arising from that decision.

We understand that the legislative intent of granting this immunity is to encourage property owners and employers to allow concealed carry on their premises. However, on the face of it, the statute is counterintuitive and illogical. It seems that if a business owner chooses to allow concealed weapons on their premises, they should have to take extra precautions to ensure the safety of employees and customers, not be given immunity. The law is silent on immunity for business owners who choose to prohibit concealed weapons on their premises, leaving the question open as to their liability for injuries caused by those weapons. Because the law raises so many questions, we are seeking guidance from you.

In the case of a business owner who decides to *prohibit* concealed weapons on the premises, what types of liability claims may these business owners potentially be exposed to? If a business owner prohibits concealed weapons on the premises, and a customer pulls out a concealed gun and opens fire, can the owner be held liable for injuries? Is there case law that held a business owner liable for a shooting that occurred on his or her property?

When a business owner chooses to *allow* concealed weapons on the premises, does the statute give that business owner blanket immunity from any claims relating to injuries caused by the weapons? Are there any circumstances in which the business owner could be held liable for injuries that occurred as a result of allowing concealed weapons on the premises? If a business owner carries a concealed weapon, and one day "snaps" and opens fire, can the business owner be held liable for injuries to employees and/or customers? Or do they have complete immunity, as the law indicates?


These questions are of urgent importance to businesses, employers, and property owners in our districts. They are wondering about the risk to their businesses if they choose to post "no guns" as allowed under the law or if they choose not to post. A child care center in Sen. Erpenbach's district wants to prohibit weapons for safety reasons but does not want to expose itself to new liability claims should a shooting – intentional or unintentional – occur. A tavern owner has strong feelings in opposition to concealed weapons on her premises, but wonders if she needs additional insurance, and is worried she will lose her business if there is an incident.

The bill creates immunity for one group of people – those who choose to allow concealed weapons. Does it increase liability for the other group – those who choose to prohibit concealed weapons? Are there examples in case law in which the granting of immunity to one group of people resulted in increased liability for a similar group of people to whom the statutes did not grant immunity?

Businesses large and small in our districts and throughout the state are seeking certainty in this time of economic challenge. However, these questions of immunity and liability cause an incredible amount of uncertainty. It is our hope that your office can offer some guidance with a formal opinion.

In advance, we thank you for your time and consideration of this matter.

Sincerely,


TIM CULLEN
STATE SENATOR


JON ERPENBACH
STATE SENATOR